

# TOWARDS JUSTICE AND VIRTUE

*A constructive account of practical reasoning*

ONORA O'NEILL

*Newnham College, Cambridge*



**CAMBRIDGE**  
UNIVERSITY PRESS

Published by the Press Syndicate of the University of Cambridge  
The Pitt Building, Trumpington Street, Cambridge CB2 1RP  
40 West 20th Street, New York, NY 10011-4211, USA  
10 Stamford Road, Oakleigh, Melbourne 3166, Australia

© Cambridge University Press 1996

First published 1996  
Reprinted 1998

*A catalogue record for this book is available from the British Library*

*Library of Congress cataloguing in publication data*

O'Neill, Onora, 1941–  
Towards justice and virtue / Onora O'Neill.  
p. cm

Includes bibliographical references and index.

ISBN 0 521 48095 7 (hardback). – ISBN 0 521 48559 2 (paperback).

1. Justice (Philosophy). 2. Justice. 3. Virtue. 4. Virtues.  
I. Title.

B105.J87054 1996  
170 – dc20 95–49161 CIP

ISBN 0 521 48095 7 hardback  
ISBN 0 521 48559 2 paperback

Transferred to digital printing 2002

# *Contents*

<i>Preface</i>	<i>page ix</i>
Introduction	I
1 Overview: justice against virtue?	9
1.1 Universalists and particularists: ancient origins	11
1.2 Universalists and particularists: current confrontations	16
1.3 Modernity, universalists and particularists: some popular stories	23
1.4 Modernity, universalists and particularists: some alternative stories	31
2 Practical reason: abstraction and construction	38
2.1 Abstraction and idealization	39
2.2 Constructivism in ethics: Rawlsian models	44
2.3 Constructing practical reason	48
2.4 Constructing reason and constructing ethics	59
3 Focus: action, intelligibility and principles	66
3.1 Focusing on results: intelligibility and consequences	69
3.2 Focusing on the sources of action: virtue and action	71
3.3 Universality, uniformity and differences	73
3.4 Empty formalism, rule-following and radical particularism	77
3.5 Some conclusions	89
4 Scope: agents and subjects: who counts?	91
4.1 Ethical standing: universalists and particularists	93
4.2 Constructing the scope of ethical concern	97
4.3 Acknowledging plurality, connection and finitude	100
4.4 Denying plurality, connection and finitude	107
4.5 Cosmopolitan scope: distant strangers and future generations	113

5	Structure: obligations and rights	122
5.1	Principles and requirements	125
5.2	Justice: obligations with rights	128
5.3	Required virtues: obligations without rights	136
5.4	Taking obligations seriously	141
5.5	Embodied obligations	146
6	Content I: principles for all: towards justice	154
6.1	Inclusive universal principles	155
6.2	Conflict and consistency	157
6.3	Universalizability and the rejection of injury	161
6.4	Just institutions: rejecting injury	166
6.5	Just institutions: rejecting direct injury	168
6.6	Just institutions: rejecting indirect injury	174
6.7	Towards justice: principles, design and judgement	178
7	Content II: principles for all: towards virtue	184
7.1	Required and optional virtues	187
7.2	Vindicating social virtues: why justice is not enough	189
7.3	Selective care and concern	195
7.4	Varieties of social virtue	200
7.5	Supererogation and optional excellences	206
7.6	Towards justice with virtue	209
	<i>Bibliography</i>	213
	<i>Index</i>	222

## *Introduction*

Writing philosophically – like writing novels or history, like drawing or journalism, like taking photographs – presents countless choices about inclusions and exclusions which will enable the work to be read in one or another way, by one or another audience. How much should be said about the premisses of arguments, or about the context or history of a given discussion or position? How much should be allowed to fade into the background? How far should the detailed implications and ramifications of a position or an argument be developed?

Some difficult choices arise because philosophical writing aspires to sound argument. Is soundness of argument partly achieved, or at least buttressed, by careful commentary on kindred and on rival work? Does it help to discuss or defeat the strategies and arguments of work that has different starting points or different conclusions? Will ‘engaging with the literature’ be useful for maintaining convincing standards and strategies of argument? Or will it produce a cautiously and boringly ‘professional’ tone, put a lot of readers off, and camouflage the main lines of argument? Too much concentration on the failings of positions and lines of thought not taken might seem distracting and defensive; too cavalier a view of other work might seem arbitrary, dogmatic, and quite unprofessional.

In writing on justice and virtue I have repeatedly found these choices difficult. Nobody can write on justice or virtue without being aware of their importance in all our lives and of the centuries, indeed millennia, of thinking on both that lie behind us. Equally, nobody can look at contemporary writing on justice and on virtue without finding a certain disarray. In the event I decided that it might be useful to probe this disarray.

So the book begins with an *overview* of current work in ethics and political philosophy, and tries to make sense of the now widespread

view that justice and virtue are the focus of rival rather than of complementary approaches to ethical and political concern. Nearly all contemporary work on justice is universalist: it advocates universal and abstract principles. Much contemporary writing on virtue is particularist: it criticizes both abstraction and universality, and interprets virtue as a matter of judging and responding to particular situations and relationships. Theories of justice argue for universal rights and obligations; virtues are seen as the time- and context-bound excellences of particular communities or lives.

Chapter 1 suggests that this rivalry between justice and virtue is historically anomalous and not well substantiated, and that the deepest sources of the supposed antagonism may lie in a range of questionable assumptions about action and reason. If these assumptions obstruct rather than help establish ethically and politically convincing and powerful thinking, discarding them may be productive. Or so I shall argue. However, discarding damaging or inadequate conceptions of action and reason will only paralyse reasoning about action if no more adequate conceptions of both can be found. Chapter 2 discusses reasoning about action, chapter 3 the role of principles of action in such reasoning.

In taking a view of reason and action I began with the thought that politics and ethics (whatever else they may be, however else they may be understood) are domains of *activity*. The reasoning that we bring to them must be *practical reasoning*, that is reasoning which we and others can use both in personal and in public life not merely to judge and appraise what is going on, not merely to assess what has been done, but to guide activity. The activities to be guided range from institution building and reform to the daily acts and attitudes of personal life. This demand has two aspects. The first is that some way or ways of guiding activity must be shown to have the sort of authority that would allow us to speak of them as *reasoned*, the second is that those ways of guiding action must be *practical*, in that they can help agents with quite limited and determinate capacities to live their lives.

The search for an adequate account of practical reason starts in chapter 2 with the thought that *abstraction*, far from being hard for agents with limited, non-ideal capacities to follow, or irrelevant for them, is unavoidable in all reasoning about action. Particularists have simply been wrong to claim that abstract thinking or reasoning is ethically damaging, or that it is avoidable. Universalists

accept that abstraction is unavoidable, and some of them aim to combine abstraction with empirical claims and instrumental reasoning, and hope to reach substantive conclusions about justice, rights and obligations. I believe that by itself this universalist strategy does not work. It may show that certain sorts of action are *conditionally* required *if* certain ends are to be achieved, or certain preferences are to be satisfied; but it cannot show that ends or preferences are anything but arbitrary, hence cannot show that pursuit of one rather than another of them is reasoned.

Supposing that no metaphysically substantial accounts of the good can establish what the non-arbitrary 'ends of reason' would be, ethical reasoning would have to take some other, non-teleological form. One live possibility, which many friends of the virtues have endorsed, is to see the basic norms or commitments of a society, or of a life, as the bedrock for practical reasoning: authoritative practical reasoning for a given society or individual appeals to their constitutive norms, characters or senses of identity. This authority cannot be challenged because there is no way of going behind or below that which is most fundamental: 'ought' not only may but must be derived from 'is'. Yet this conception of practical reasoning has both ethical costs and theoretical limitations.

The only other live option is to use a conception of reason which can discriminate among courses of action, but does not simply endorse established norms or commitments, or existing traditions and senses of identity: such a conception of practical reason would be *critical*. If no critical account of practical reason can be *discovered*, either in the world or in human conceptions and identities, the only way in which it can be made available is if it can be *constructed*. The critical account of practical reason proposed here will be constructed from the demand that anything that is to count as reasoning must be followable by all relevant others. This demand articulates the thought that when reasons to adopt principles are given, those who do so must assume that those who receive them *could* adopt the recommended or prescribed principles. Practical reasoning begins with a minimal, modal, but authoritative demand: others cannot be given reasons for adopting principles which they cannot adopt.

This limited, modal account of practical reason applies to *principles of action*. Many proponents of virtue ethics will think that things have gone badly awry at this point, because they think

that action on principles is ethically inadequate, and perhaps philosophically incoherent. Chapter 3 argues that, on the contrary, *action*, hence *principles of action*, indeed specifically *universal principles of action*, must be the *focus* of practical reasoning. However, universal principles have none of the features that have led most contemporary opponents of ethical universalism to fear and shun them. Universal principles are not empty; they do not prescribe rigidly uniform action or neglect of differences between cases; they do not dominate those who act on them; they do not undercut the importance of judgement.

However, a focus on universal principles cannot fix the *scope of ethical consideration*: it cannot show *who* falls within the domain of universal principles. Universality is in the first instance only the formal property of holding for all rather than only for some cases within a specified domain. If we cannot invoke the metaphysical certainties that were traditionally thought to underpin robust forms of perfectionism and of naturalism, on which many sorts of ethical universalism have been based, and in doing so establish who or what has moral standing, the proper scope of ethical consideration must be fixed by other considerations. Chapter 4 argues that the domain of ethical consideration relevant for a given context can be fixed by considering the assumptions agents make about the agency and the subjecthood of others whose lives they take to be connected to their own: what is assumed in action and in attitudes cannot be disowned for ethical purposes, so can be used to fix the proper scope of ethical consideration in a given context. The others for whom reasoned proposals are to be followable are all those whom agents already take for granted in acting.

This account of the *focus* and *scope* of ethical concern and consideration establishes the context in which ethical reasoning is undertaken. The character of that reasoning can then be outlined in three stages. Chapter 5 considers the *structure* of significant forms of ethical reasoning; chapters 6 and 7 turn to the *content* of central ethical requirements, and respectively move towards accounts of justice and of virtue.

The most significant *structures* of ethical concern can be expressed in linked webs of *requirements*, which are better articulated by beginning from the perspective of agents and their obligations rather than that of claimants and their rights. If obligations are



accorded priority, both the connections and the differences between justice and many of the social virtues can be articulated.

Chapter 6 uses the conceptions of action and reason set out in earlier chapters to construct the elements of an account of *justice*. It argues that justice requires the *rejection of principles of injury*, hence the avoidance of action that injures either systematically or gratuitously. Since injury may be inflicted on others within the scope of ethical consideration either directly or indirectly (by damaging the social fabric and the natural and man-made environments on which others depend) justice will always require complex institutions and practices that can guide and constrain action and policy. Broadly speaking, just action aims to develop institutions and practices which effectively limit and prevent injury to all who fall within the scope of ethical consideration – on whichever side of various borders their lives are led. Although principles of justice do not provide a precise set of instructions, they set standards for building and maintaining *institutions* and *cultures*; their implications will differ in differing conditions.

The last chapter turns to ethical issues that lie beyond justice, and argues that some of these are nevertheless matters of requirement. In particular, certain social virtues are required rather than optional excellences. Their underlying principle requires the *rejection of indifference*, which (unlike injury) cannot be avoided in all action. These social virtues can therefore demand that systematic indifference be rejected, but not that gratuitous indifference be rejected. Like justice, these social virtues have implications not only for action that affects others directly, but for action that affects either the social fabric or the natural and man-made environments on which human lives depend. This account of required virtues does not show that all excellences are required: it allows for the thought that some supererogatory excellences go beyond duty, and that other optional excellences are not required and have no connection with universal principles of duty.

Throughout the book the constructive account of practical reasoning presented in chapter 2 provides the basic orientation. This account is meagre and modal; it makes no assumptions about motivation. It claims only that agents cannot offer others reasons for using one rather than another principle to guide their action unless they think that the recommended principle is a possibility for those others. Practical reasoning begins by requiring us to reject

principles which we cannot view as principles for those for whom the reasoning is to count. This rather stringent conception of universalizability as the core of practical reasoning is the Kantian kernel of the book's argument.

It follows that the work has only limited affinity with most contemporary 'deontological' work on justice and rights, which mainly builds on empiricist accounts of motivation and instrumental accounts of rationality. Although this 'deontological' work is widely thought of as Kantian, not least by those who produce it, it in fact rejects most of the basic claims of Kant's practical philosophy, including in particular his conceptions of action, reason and freedom. The historical and exegetical claims that lie behind these rather brusque assertions about contemporary 'Kantianism' will not be explored or substantiated.<sup>1</sup> My intention in writing has not been to comment on the history of ethics, except in passing, but to show that justice and virtue need not be rivals, and that a rigorous conception of reasoning about action will allow us to construct substantive accounts of both without the need to establish any metaphysics of the person, or of the Good.

The results may, I hope, seem worth taking seriously both to those who think that human rights are the core of justice, but that there is nothing or little objective to be said about good lives, and to those who think that virtuous characters are the kernels of good lives, but that preoccupation with obligations and rights is ethically limited and even corrupting. I suspect that, on the contrary, failure to think about justice and virtue in tandem is likely to lead to blinkered and ungenerous, as well as implausible, visions of life, action and politics.

Although the argument of the book is continuous, it is inevitably much less than a detailed account of just societies or of virtuous lives. Some possible implications of rejecting injury and indifference in contemporary conditions are sketched, but much remains open. Principles of justice and of virtue will have differing implications in differing situations; institutions and practices that are just and feasible under one set of conditions may be neither in another; virtues that are vital in one social world may be obsolete or pointless in another.

<sup>1</sup> Some of them I discuss in 'Kant's Ethics and Kantian Ethics' forthcoming in *Bounds of Justice* (Cambridge University Press).

This is not the only way in which the account of justice and virtue is incomplete. Although the book engages sporadically with rival positions, it offers no systematic analysis and criticism of their favoured texts, or of the huge secondary literatures. There are enough footnotes to irritate some readers, and too few to satisfy others. I have neither tried to make every point that might be made on behalf of the accounts of practical reasoning, justice and virtue that I propose, nor to counter every point that might be made against them. The reasons that led me to these rather than other choices in writing have emerged gradually. If I was to articulate and illustrate the structure and sweep of a complex way of reasoning about ethics and politics in a relatively short book, much had to be left unsaid, and a good deal had to be stated with fewer qualifications and less detail, indeed with more ragged edges, than I would have liked. The book leads only *towards* an account of justice and *towards* an account of virtue; it does not offer a full account of either, but does show why a demand for a full yet context-free account of either is inappropriate.

There are further systematic omissions. One is the lack of an account of what is commonly called motivation, that is to say about the sources and psychology of action, rather than about its vindication. Unlike those contemporary accounts of justice and of the virtues that build (diverging) accounts of motivation into their very conceptions of practical reason, I have separated justification from motivation. ‘Deontological’ and consequentialist work on justice both often rely on *preferences* to orient reasoning; work on the virtues often relies on the *identities* of communities and individuals to do so. Both strategies seem to me misguided and self-defeating. In trying to build into their accounts of practical reasoning motivational elements such as preferences and identities, whose claims to be reasoned are minimal, these lines of thought limit and eventually undermine both their own claims about reason and the authority of their own conclusions. Both strategies also overlook the elementary point that a conception of practical reasoning will lack import for those for whom it is not followable. I did not return to the topic of motivation because it seems to me to be among the most confused and uncertain domains of philosophical inquiry at present.

In the background there are larger omissions. I offer only fleeting comments on realist metaphysics, on the vast variety of ethical positions that lay claim to the accolade ‘realist’ (with or

without metaphysical pretensions), or on the legions of perfectionist and naturalistic conceptions of universalism in ethics that have traditionally claimed to sustain integrated accounts of justice and of the virtues. Nor have I shown that no other convincing account of practical reason can be given, or that there is no other way in which links between justice and virtue might be restored. If a convincing alternative could be found, some of the conclusions that I have constructed might be reached by different and perhaps by easier routes; others might be rebutted; conclusions that I have not reached might be attainable.

Even those who sympathize with the constructive approach I have taken may regret that it does not sustain or vindicate all the ideals and visions which they cherish, and would hope that a full and integrated account of justice and of virtue could establish. They may find an account of justice that points to the construction of institutions and practices, to the protection of capabilities and the regulation of powers, rather than to a single, timeless check-list of rights, or to a definitive answer to the question 'Equality of what?', disappointing. They may perhaps feel that a better account of global justice could have been reached by swifter arguments, if only a bolder view of the scope of ethical principles had been asserted – or demonstrated – at the start. Or they may think that a forthright adoption of less anthropocentric starting points would have provided a better way of thinking about environmental justice and green virtues. Others may be equally disappointed that I sketch a wide but evidently incomplete account of the virtues, that I do not show that virtue is the same for all time, or that the discussion of judgement is not fuller. I hope that those who believe that these further and stronger conclusions can be reached will show how it might be done, using starting points which are available and reasons which are convincing.